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EXAMINER

ZISKA, S

ART UNIT

PAPER NUMBER

184

DATE MAILED: 11/19/90

OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT
1755 JEFF. DAVIS HWY, 4TH FL.
ARLINGTON, VA 22202

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☐ Responsive to communication filed on ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 30 (thirty) month(s), 4 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☐ Notice of References Cited by Examiner, PTO-892.
2. ☐ Notice re Patent Drawing, PTO-948.
3. ☐ Notice of Art Cited by Applicant, PTO-1449.
4. ☐ Notice of Informal Patent Application, Form PTO-152
5. ☐ Information on How to Effect Drawing Changes, PTO-1474.
6. ☐

Part II SUMMARY OF ACTION

1. ☒ Claims 1-9 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☐ Claims _____ are rejected.
5. ☐ Claims _____ are objected to.
6. ☒ Claims 1-9 are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

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EXAMINER'S ACTION

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-7, drawn to a DNA fragment, classified in Class 536, subclass 27, for example.

5 II. Claims 8 and 9, drawn to a peptide, classified in Class 530, subclass 300 for example.

The inventions are distinct, each from the other because of the following reasons:

10 The DNA fragment of Group I and the peptide of Group II are mutually exclusive inventions.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, recognized divergent subject matter and separate search requirements, restriction for examination purposes as indicated is proper.

15 A telephone call was made to Mr. Tillman on October 26, 1990, to request an oral election to the above restriction requirement, but did not result in an election being made.

20 Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

25 Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

Serial No. 07/486,827

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Art Unit 184

An inquiry concerning this communication should be directed to
Examiner Suzanne Ziska, Ph.D., at telephone number 703-308-4008.

SEZ
11/7/90

Elizabeth C. Weimar

ELIZABETH C. WEIMAR
SUPERVISORY PATENT EXAMINER
GROUP ART UNIT ~~184~~ 184